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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,349	11/10/2005	Takeshi Hashimoto	80081(302721)	8934

7590 06/19/2008
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EXAMINER

ROJAS, BERNARD

ART UNIT	PAPER NUMBER
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2832

MAIL DATE	DELIVERY MODE
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06/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/556,349	Applicant(s) HASHIMOTO ET AL.	
	Examiner BERNARD ROJAS	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11 and 15 is/are rejected.
- 7) ☒ Claim(s) 2-8,10-14 and 16-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09142007 12032007</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS 11102005</u> . |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 9-11 and 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 7,102,473. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1, U.S. Patent No. 7,102,473 discloses a micro relay comprising: a base substrate [body, col. 9 line 22] having an electromagnetic device [electromagnetic mechanism, col. 9 line 22], said base substrate having a fixed contact [fixed contact, col. 9 line 32] on one surface thereof; an armature block [armature block, col. 9 line 25] including a frame [frame, col. 9 line 26] secured to the surface of said base substrate, a

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movable plate [armature base, col. 9 line 26] disposed inside said frame and supported rotatably by said frame, and a movable contact base [contact mechanism, col. 9 line 32] supported by said movable plate and having a movable contact [movable contact, col. 9 lines 32-33], said movable plate cooperating with a magnetic material provided on a surface of said movable plate to define an armature [col. 9 lines 29-31] and being driven by said electromagnetic device to switch on/off a connection between said fixed contact and said movable contact; a cover [cover, col. 9 lines 24] bonded to said frame, said cover creating a space surrounded by said frame and closed between said base substrate and the cover to accommodate said armature and said fixed contact; wherein said base substrate has a storage recess for accommodating said electromagnetic device, said storage recess being composed of a hole extending from the one surface of said base substrate to a rear surface thereof and a thin storage recess lid fixed on the one surface of said base substrate to close said hole [col. 9 lines 44 to col. 10 line 5], said electromagnetic device including a yoke, a coil wound around said yoke to generate a flux in response to an exciting current, and a permanent magnet secured to said yoke to generate a flux flowing through said armature and said yoke [col. 9 lines 41-43].

Claim 9, U.S. Patent No. 7,102,473 discloses the micro relay as set forth in claim 1, wherein said storage recess lid is made of a silicon layer which was formed by selectively removing a silicon substrate and an insulating layer from a SOI substrate which comprises the silicon substrate and the thin film silicon layer formed on the insulation layer of the silicon substrate [col. 10 lines 1-5].

Claim 10, U.S. Patent No. 7,102,473 discloses the micro relay as set forth in claim 1, wherein said cover is closely bonded to said frame to create a sealed space surrounded by said frame and closed between said base substrate and the cover [col. 9 lines 35-40], said base substrate having a fixed contact through-hole extending from the one surface of the base substrate to the rear surface thereof, a fixed contact electrode formed on the rear surface of the base substrate, a fixed contact conductive layer formed on an inner surface of said fixed contact through-hole for an electrical connection between said fixed contact and said fixed contact electrode [col. 10 lines 6-14], and a thin film through-hole lid provided on the one surface of said base substrate to close said fixed contact through-hole [col. 10 lines 1-5].

Claim 11, U.S. Patent No. 7,102,473 discloses the micro relay as set forth in claim 1, wherein said cover is closely bonded to said frame to create a sealed space surrounded by said frame and closed between said base substrate and the cover [col. 9 lines 35-40], said base substrate having a fixed contact through-hole extending from the one surface of the base substrate to the rear surface thereof, a fixed contact electrode formed on the rear surface of the base substrate, a fixed contact conductive layer formed on an inner surface of said fixed contact through-hole for an electrical connection between said fixed contact and said fixed contact electrode, and a metal material buried in the through-hole to close the through-hole [col. 10 lines 6-14].

Claim 15, U.S. Patent No. 7,102,473 discloses the micro relay as set forth in claim 1, wherein said movable plate is supported by said frame through a supporting spring piece having elastic deformability, said movable contact base being supported by

said movable plate through a pressure spring piece, said frame, said movable plate, said movable contact base, said supporting spring piece, and said pressure spring piece being formed from one semiconductor substrate [col. 10 lines 28-36].

Terminal Disclaimer

An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

Allowable Subject Matter

Claims 2-8, 10-4 and 16-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BERNARD ROJAS whose telephone number is (571)272-1998. The examiner can normally be reached on M and W-F, 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Elvin G Enad/
Supervisory Patent Examiner, Art Unit 2832

Br
/Bernard Rojas/
Examiner, Art Unit 2832